

ALAMEDA COUNTY SUPERIOR COURT
APPLICATION FOR APPOINTMENT TO ADR PANELS
including Judicial Arbitration, Mediation, Neutral Evaluation, and Private Arbitration

1. APPLICANT:

Applicant's Name: Robert M. Smith, Esq., Mediator

Firm Name:

Address: 120 Montgomery Street, Suite 1790

City/State/Zip: San Francisco, CA 94104

Telephone: (415) 928-1250

Fax: (415) 928-1260

Email: rms@robertmsmith.com

2. PANEL REQUEST: *(All applicants are requested to serve as Judicial Arbitrators)*

Check each panel for which you are applying:

☐ Judicial Arbitration ☒ Mediation ☒ Neutral Evaluation ☐ Private Arbitration

3. EDUCATION:

| <u>Dates (from-to)</u> | <u>College/University/Law School</u> | <u>Degree Obtained</u> |
|------------------------|--------------------------------------|------------------------|
| | Harvard College | AB with Honors |
| | University of Tubingen, Germany | Fulbright Scholar |
| | Columbia University | MA, |
| | | MS with High Honors |
| | Yale Law School | JD |

4. LEGAL EXPERIENCE: State Bar No. 72727 Date Admitted: 12/22/76

A. Are you a member in good standing of the State Bar of California? ☒ Yes ☐ No

B. Are you a retired judicial officer? ☐ Yes ☒ No

C. Are you actively engaged in the practice of law at this time? ☐ Yes ☒ No, Full-Time
If not, are you retired from practice? ☐ Yes ☐ No Date retired: Mediator

D. Are you currently active in litigation practice? ☐ Yes ☒ No

G. Describe any legal publications or teaching you have done: *ADR for Financial Institutions* (West Group, 2d ed. 1998, 1200 pages.) Former columnist on ADR for *California Lawyer*, and author of numerous articles on mediation and arbitration in a variety of publications from *California Banker* to the *San Francisco Examiner*. Adjunct professor of law teaching Intellectual Property, and International Arbitration and Mediation.

5. ADR TRAINING and EXPERIENCE

Mr. Smith has completed more than 300 hours of ADR training, including the American Arbitration Association's basic and advanced arbitrator training and mediation training; the

Fellowship course of The Chartered Institute of Arbitrators (London); National Institute for Trial Advocacy (NITA) mediation and ADR training; CDR Associates practicum for experienced mediators (Boulder, CO); Stanford Law School mediation training.

A. Number of years experience as: mediator 10; arbitrator 10; neutral evaluator 5;

B. List all other court-connected ADR panels of which you are a member, specifying the processes for which you have qualified: Mr. Smith serves as a mediator with:
the UN's World Intellectual Property Organization, Geneva, Switzerland;
the World Bank;
the University of California at San Francisco (medical school and center);
the US Equal Employment Opportunity Commission;
the US District Court (ED CA);
the US Bankruptcy Court, Northern District of California;
the Alameda County Bar Association;
the Bar Association of San Francisco;
the San Mateo County Appropriate Dispute Resolution Program;
the American Arbitration Association's National Panel of Neutrals;
the Santa Clara Superior Court and Bar Association;
the US Postal Service;
National Association for Dispute Resolution, Inc.;
National Employment Mediation Services;
CPR Institute for Dispute Resolution

C. State the name(s) of any organization(s) through which you have provided ADR services during the past five years, giving the dates and the services you provided:
Mr. Smith frequently conducts mediations through the courts and bar associations of Northern California on both a paid and *pro bono* basis. During the past five years he has conducted over a hundred mediations through the ADR organizations listed above.

D. Describe the subject matter of five disputes in which you served as the ADR provider in the past 5 years, including the dates of service, the process and if you were sole or co-provider.

| | | | |
|--|------------------|----------------------|--------------------|
| 1. Employment (executive compensation) | Mediation | Sole Provider | April 2002; |
| 2. Breach of Contract for website development | Mediation | Sole Provider | July 2002; |
| 3. Intellectual Property | Mediation | Sole Provider | Oct. 2002; |
| 4. Construction | Mediation | Sole Provider | Dec. 2002; |
| 5. Real Estate Purchase Dispute | Mediation | Sole Provider | Mar. 2003; |

E. Is your ADR style best described as X facilitative or X evaluative/directive?

Depends on the wishes of the parties and the circumstances.

F. Describe any ADR related publications or training you have done: See above.

G. Set forth your hourly fee or fee schedule, including any sliding scale or pro bono provisions.

Attach a copy of your fee agreement. *(Please note: Judicial arbitrators waive compensation for the first three (3) hours of hearing time in Alameda County and all ADR panels are requested to accept at least three (3) Judicial arbitration cases per year).*

\$500 an hour split between the parties with no administrative fee.

6. AVAILABILITY/SPECIAL REQUIREMENTS

- A. List any languages, other than English, in which you are able to conduct ADR proceedings:
French, some Spanish and German
- B. Please state any special bi-cultural/multi-cultural capabilities or familiarity you possess:
Mr. Smith has extensive experience mediating across cultural boundaries, ranging from employment disputes involving racial discrimination to arts mediation about a mural. He has conducted mediations through interpreters. He has broad international experience.
- C. You are available to conduct ADR conferences: ____ in your office; X at counsel's office; ____ other (please describe: _____)
- D. You are available to conduct ADR proceedings: X during regular office hours; ____ evenings by appointment; X weekends by prior arrangement;
- E. Please describe any requirements you have for ADR participants such as submission of copies of pleadings, briefs, declarations in lieu of testimony, etc.: Mr. Smith suggests that counsel submit mediation briefs and relevant pleadings prior to the mediation hearing.

7. SUBJECT MATTER DESIGNATION

Please check each area below in which you are qualified by training/experience to provide ADR services, indicating the percentage it represents of your law practice, if any, and the ADR process(es) which you are prepared to offer in that area:

| Case Type Accepted | % of Practice | Judicial Arb. | Mediation | Neutral Eval. | Private Arb. |
|---------------------|---------------|---------------|-----------|---------------|--------------|
| Bankruptcy | | | X | | |
| Business/Corp. | | | X | | |
| Civil Rights | | | X | | |
| Collections | | | X | | |
| Construction | | | X | | |
| Contracts | | | X | | |
| Elder law/abuse | | | | | |
| Employment | | | X | | |
| -Discrimination | | | X | | |
| -Harassment | | | X | | |
| -Termination | | | X | | |
| Environmental | | | X | | |
| Fraud | | | X | | |
| False Imprison. | | | | | |
| Family Law | | | | | |
| HO Ass'n | | | X | | |
| Insurance Cov. | | | X | | |
| Intellect. Property | | | X | | |
| Landlord-Tenant | | | X | | |
| Legal Malpractice | | | X | | |
| Maritime | | | | | |
| Med Malpractice | | | X | | |

| | | | | | |
|---------------------------|--|--|----------|--|--|
| Partnership | | | X | | |
| P.I. – Auto | | | | | |
| P.I. – Other | | | | | |
| Premises Liability | | | | | |
| Probate/Trust | | | X | | |
| Product Liab. | | | | | |
| Real Property | | | X | | |
| Securities | | | X | | |
| Tax | | | | | |
| Toxic Torts | | | | | |
| Wrongful Death | | | | | |
| Other: | | | | | |
| | | | | | |
| | | | | | |

**ROBERT M. SMITH, ESQ.
MEDIATOR**

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**e-mail: rms@robertmsmith.com
www.robertmsmith.com**

**Chartered Arbitrator (United Kingdom)
Fellow, Hong Kong Institute of Arbitrators**

**Fellow, International Academy of Mediators
Fellow, American College of Civil Trial Mediators**

Fee Schedule and Policies:

Rate: \$350 - 500 an hour, depending on the complexity of the matter, split between the parties with no administrative charge.

Billable time includes hearing time, telephone conferences, reading, research, and analysis.

Prepayment:

Prepayment is required. All fees must be deposited no later than 7 days after the booking.

Cancellation and Continuance Policies:

Because Mr. Smith is a full-time mediator, he has a cancellation and continuance policy. The policy is: fees are fully refundable if there is a cancellation or continuance more than 45 days before the hearing. Half of the fees are refundable if there is a cancellation or continuance between 45 and 30 days before the hearing. There is no refund if the hearing is cancelled or continued less than 30 days before the hearing.